

Rm 8577

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May 3, 1995

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MAY - 8 1995

Ms. Annette Rose
President of the Board
The Board of Supervisors of
Marin County
Administration Building
Suite 315, 3501 Civil Center Drive
San Rafael, California 94903

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

Re: Cellular Telecommunications Industry Association's Petition to
Preempt State and Local Zoning Regulations

Dear Ms. Rose:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

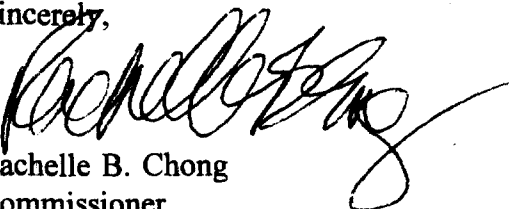
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

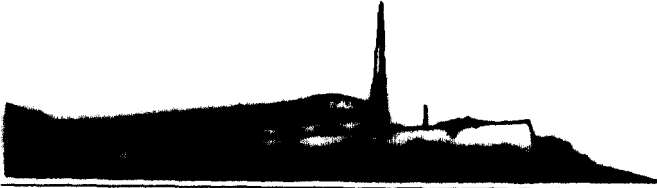
Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachelle B. Chong", with a long, sweeping flourish extending to the right.

Rachelle B. Chong
Commissioner



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THE BOARD OF SUPERVISORS OF MARIN COUNTY

April 18, 1995

William F. Canton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20036

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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COMMISSIONER
RACHELLE R. CHONG
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RE: Opposition to Cellular Telecommunications Industry Association request for
Amendment of Commission's Rules to Pre-empt State and Local Governments from
Enforcing Zoning and Similar Regulations

Marin County strongly opposes the petition of the Cellular Telecommunications Industry Association which requests the Federal Communications Commission (F.C.C.) set rules pre-empting State and Local Government from enforcing planning and zoning regulations for location and construction of new towers for Commercial Mobile Radio Service (CMRS) providers.

The proposed regulations would eliminate local control and severely restrict the ability of State and Local Government to resolve local land use issues in the Community, where they are best understood and most efficiently handled, instead transferring local issues to decision-makers thousands of miles away in Washington D.C. The proposed pre-emption rule erroneously assumes that communities routinely deny permits or unreasonably delay placement of facilities or extension of communication services. However, this is not the case. The Marin County Board of Supervisors is not aware of any instances where local permits have been denied or facilities installation unreasonably delayed as a result of land use permit considerations by County Decision-makers.

Marin County has taken a very forward looking and supportive approach in local policies adopted to accommodate telecommunications facilities and to oversee their location and placement. In response to the tremendous sustained and projected growth in the telecommunications industry (including F.C.C. projections of 88% to 235% growth in land, mobile, and microwave facilities by the year 2000), in 1990 Marin County adopted a comprehensive Telecommunications Facilities Policy Plan. This Plan finds that telecommunications facilities are necessary for the quality of life and economic well-being of the people of Marin because such facilities provide necessary services ranging from radio and television to radio communications with emergency response vehicles. The Plan also recognizes that such facilities have the potential for important adverse impacts of substantial local concern including land use incompatibility, visual impacts, and health and safety effects. The policies in the County's Plan provide reasonable mitigation to reduce or eliminate these impacts.

JOHN KRESS SAN RAFAEL 1ST DISTRICT	•	VICE-PRESIDENT HAROLD C. BROWN SAN ANSELMO 2ND DISTRICT	•	PRESIDENT ANNETTE ROSE SAUSALITO 3RD DISTRICT	•	GARY GIACOMINI SAN GERONIMO 4TH DISTRICT	•	2ND VICE-PRESIDENT HARRY J. MOORE NOVATO 5TH DISTRICT	•	CLERK REGULAR MEETING TUESDAY, 9 A.M.
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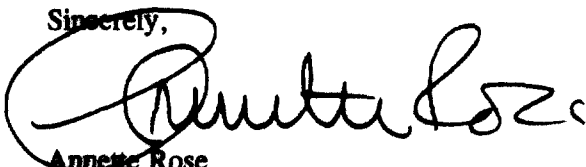
William F. Canton
April 18, 1995
Page 2

The County's Telecommunication Policy Plan provides for three types of planning review for major, minor, and exempt projects. The policies promote evaluation of projects in terms of local concern for scale and character and compliance with development standards with respect to other specific siting factors. Evaluation is also directed to identifying projects for which no discretionary review is required and which have little or no impact. The Plan focuses on promoting efficient use of land resources, achieving aesthetic and other Community values and preventing safety hazards, externalities and incompatibility between land uses. The Plan provides a consistent procedure for identifying suitable locations for facilities and regulating development factors such as height, setbacks, landscaping, color, access and parking, in a manner which does not prevent establishment of a telecommunications service for which a Federal License has been issued.

The County's adopted Telecommunications Policy Plan provides the telecommunications industry with a clear written disclosure, in advance, of local Community procedures and regulatory requirements which can be utilized by the industry in their site planning process and relied upon to avoid any possibility of unreasonable delays due to land use permit considerations. The County's Plan establishes a fair and efficient process which can be consistently applied without discrimination between often competing telecommunications companies in the siting of local facilities. If the County's Plan Policies are pre-empted as proposed, this would create havoc as local community groups and concerned citizens scramble to address local land use issues and begin to lobby their local elected officials to represent their community concerns to the F.C.C. on each project. Those community groups and individuals would also likely seek to address their local concerns to the F.C.C. directly, (and perhaps, as is now the case with some projects in the County, through their attorneys) embroiling the Commission in local land use and health and safety issues for each specific site that is considered.

We believe that the Commissions' taking direct responsibility for local Community issues is ill advised and we strongly urge you to reject the petition for the proposed rule change pre-empting local control of these matters as they relate to locating and constructing telecommunications facilities in local jurisdictions.

Sincerely,



Annette Rose
President of the Board

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cc:

[REDACTED]
Congresswoman Lynn Woolsey
Senator Barbara Boxer
Senator Diane Feinstein
Ira R. Alderson, Jr., Attorney for State P.U.C.
Sonoma County Board of Supervisors
Sonoma County Planning Dept., Attn: Greg Carr